

Decision 06-04-036 April 13, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion to Comply with the
Mandates of Senate Bill 1563 regarding
deployment of Advanced Telecommunications
Technologies.

Rulemaking 03-04-003
(Filed April 3, 2003)

**OPINION GRANTING INTERVENOR COMPENSATION
TO GREENLINING INSTITUTE, LATINO ISSUES FORUM,
THE UTILITY REFORM NETWORK FOR SUBSTANTIAL
CONTRIBUTIONS TO DECISION 05-05-013**

This decision awards Greenlining Institute (Greenlining), Latino Issues Forum (LIF), and The Utility Reform Network (TURN) compensation for their substantial contributions to Decision (D.) 05-05-013. Today's awards will be paid from the Commission's intervenor compensation program fund as follows:

Greenlining	\$ 7,007.23
LIF	\$71,118.60
TURN	\$56,087.67

These awards are, in each case, smaller than those requested. Greenlining's original request of \$10,620.73 is reduced to conform the requests with our policies on attorney fee levels and appropriate activities to be compensated. LIF's original request of \$163,926.22 is reduced to reflect our policies on attorney fee levels, appropriate activities for compensation, and

reasonable hours spent on related activities. TURN's original request of \$62,443.67 is reduced to conform to our policies regarding attorneys' hourly fees.

1. Background

The Commission opened Rulemaking (R.) 03-04-003 to satisfy the requirements of Senate Bill (SB) 1563 (Ch. 674, Stats. 2002). SB 1563 required the Commission to convene a proceeding to develop a plan for encouraging the widespread availability and use of advanced communications infrastructure. It required us to encourage participation from a broad cross-section of the communications industries, as well as users and community representatives. The bill required the Commission to encourage participation in the proceeding by community-based organizations, including nonprofit community technology programs and libraries. As described in the opening rulemaking, the ensuing report was required to identify factors preventing the ubiquitous availability and use of advanced communications services, and assess the consequences of and develop strategies for addressing this inadequacy while encouraging the deployment of adequate investment.

We investigated the issues in this proceeding by soliciting written comments, holding workshops and community meetings, and conducting independent research on a number of issues affecting the deployment of broadband in California. Parties discussed the scope of issues and schedule in this proceeding at a prehearing conference on September 15, 2003. The Commission also conducted a full panel hearing on February 8, 2005 at which parties and members of the community addressed the draft report in this proceeding, which was released on February 1, 2005. D.05-05-013 adopted a report, entitled *Broadband Deployment in California*, to satisfy the requirements of SB 1563.

The report generally finds that advanced telecommunications technologies are increasingly central to the needs of families, the state's economy, and the vitality of local communities. California leads the nation in deployment of broadband services and usage, but must continue to advance forward-looking public policies and programs that will ensure the state's continued leadership in deploying new advanced telecommunications technologies. The report identified several key areas, among them, improving access to rights-of-way, modifying the role of Commission approval of new networks and new providers of telecommunications services, and encouraging the examination of broadband deployment over existing power lines, where California should consider adoption of new policies. The report also found that the widespread adoption of Voice over Internet Protocol services and other innovative services is likely to spur the deployment of broadband networks in California. Finally, the report discusses several ways to promote availability of broadband services to lower-income Californians, residents of rural areas, and the disabled community.

2. Requirements for Awards of Compensation

The intervenor compensation program, enacted in Pub. Util. Code §§ 1801-1812, requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if the intervenor makes a substantial contribution to the Commission's proceedings. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers. (Subsequent statutory references are to the Public Utilities Code unless otherwise indicated.)

All of the following procedures and criteria must be satisfied for an intervenor to obtain a compensation award:

1. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent (NOI) to claim compensation within 30 days of the prehearing conference (or in special circumstances, at other appropriate times that we specify). (§ 1804(a).)
2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
3. The intervenor should file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)
4. The intervenor must demonstrate “significant financial hardship.” (§§ 1802(g), 1804(b)(1).)
5. The intervenor’s presentation must have made a “substantial contribution” to the proceeding, through the adoption, in whole or in part, of the intervenor’s contention or recommendations by a Commission order or decision. (§§ 1802(i), 1803(a).)
6. The claimed fees and costs are reasonable (§ 1801), necessary for and related to the substantial contribution (D.98-04-059), comparable to the market rates paid to others with comparable training and experience (§ 1806), and productive (D.98-04-059).

For discussion here, the procedural issues in Items 1-4 above are combined, followed by separate discussions on Items 5-6.

3. Procedural Issues

The prehearing conference in this matter was held on September 15, 2003. Greenlining, LIF, and TURN filed NOIs prior to the prehearing conference. Section 1802(b)(1) defines a “customer” as: A) a participant representing consumers, customers or subscribers of a utility; B) a representative who has been authorized by a customer; or C) a representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the

interests of residential or small business customers. In this case, each of the entities requesting compensation is a customer as defined in § 1802(b)(1)(C) and asserted financial hardship.

On July 3, 2003, Administrative Law Judge (ALJ) Malcolm found TURN is a customer under the Public Utilities Code, and meets the financial hardship condition. TURN filed its request for compensation on July 6, 2005, within 60 days of D.05-05-013 being issued.¹ In view of the above, we find that TURN has satisfied all the procedural requirements necessary to make its request for compensation.

On August 28, 2003, ALJ Malcolm found Greenlining and LIF are customers under the Public Utilities Code, and meet the financial hardship condition. Greenlining filed its request for compensation on July 1, 2005, within 60 days of D.05-05-013 being issued.² In view of the above, we find that Greenlining has satisfied all the procedural requirements necessary to make its request for compensation. LIF filed its request for compensation on July 18, 2005, within 60 days of D.05-05-013 being issued.³ In view of the above, we find that LIF has satisfied all the procedural requirements necessary to make its request for compensation.

4. Substantial Contribution

In evaluating whether a customer made a substantial contribution to a proceeding, we look at several things. First, we consider whether the ALJ or Commission adopted one or more of the factual or legal contentions, or specific

¹ No party opposes the request.

² *Id.*

policy or procedural recommendations put forward by the customer. (See § 1802(i).) Second, if the customer's contentions or recommendations paralleled those of another party, we consider whether the customer's participation materially supplemented, complemented, or contributed to the presentation of the other party or to the development of a fuller record that assisted the Commission in making its decision. (See §§ 1802(i) and 1802.5.) As described in § 1802(i), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

If the Commission does not adopt any of the customer's recommendations, it may still award compensation if the customer's participation substantially contributed to the decision or order in other ways.

We evaluate whether a substantial contribution was made recognizing that this was not a typical Commission proceeding. As required by SB 1563, the Commission consulted with a broad cross-section of industry, users, and affected communities rather than relying exclusively on a formal process. The result of this process was the preparation of a report for submission to the Legislature, rather than a decision that adopted specific outcomes. For this reason, it is difficult to say that a particular party's position was adopted by the Commission. However, the ideas and analysis of many parties are reflected in the report and were necessary to the Commission's analysis of the issues, even if the plan laid out in the report does not adopt each and every recommendation.

With this context in mind, we consider the contributions each intervenor alleges to have made.

³ *Id.*

4.1 Greenlining

Greenlining's request identifies Greenlining's substantial contribution to D.05-05-013 as follows:

"Greenlining's substantial contribution related to the creation of the Broadband Report, generally, and to the present unavailability of broadband services to underserved Californians, including low-income and minority communities. Although not all of Greenlining's recommendations were adopted, they at least benefited the Commission, thereby making full compensation to Greenlining appropriate. (*See* Aglet Decision, D.04-08-025.)

"The bulk of Greenlining's participation took the form of testimony at the Commission's February 8, 2005 full panel hearing. At that hearing, Greenlining highlighted the fact that our constituencies, low-income, minority, and other underserved Californians, were less likely to have broadband access than affluent whites. Greenlining urged the Commission to use this data to help bridge the digital divide that still exists in California. The Broadband Report clearly illustrates this inequity.

"Greenlining also testified that, although the Broadband Report shows that Asian households in California are more than twice as likely to have broadband than other households of color, this data is deceptive since it fails to disaggregate Asian communities (for example, Japanese households as opposed to Hmong households). Although the Broadband Report did not adopt this recommendation, it did show that low-income Asian households were three times less likely to have broadband access than affluent white households." (Greenlining Request, pp. 2-3.)

According to Greenlining's timesheets, its participation in this proceeding was limited to three types of work: review of filings by other parties, preparation for and participation in the en banc proceeding, and preparation of its NOI and request for compensation. Based on its timesheets, Greenlining did

not prepare written comments in response to the rulemaking, the draft report, or the draft or alternate decisions in the case.⁴ Although Greenlining participated in the en banc, the points raised by Greenlining were also raised by other parties who participated both through speaking at the en banc and by submitting written comments throughout the proceeding. For example, Ana Montes of LIF testified during the en banc that figures in the Broadband Report showed that broadband access for Asian communities was higher than other communities of color, but that the Broadband Report did not distinguish between different Asian Pacific islander communities. Berrío's testimony later in the en banc echoed this point. LIF's Montes also referred the Commission to a study prepared by the UC Santa Cruz Center for Justice, Tolerance, and Community which provided analysis about access issues in communities of color. Because no written filings were made and no citations provided at the en banc, Greenlining did not provide any factual basis or analysis beyond the observation that the report failed to disaggregate Asian households.

Given the limited scope of Greenlining's participation and the fact that it did not prepare comments on the rulemaking, the report, or the draft or alternate decisions, it is difficult to identify how Greenlining's review of parties' filings, the draft and alternate decisions, and other parties' comments on those decisions resulted in a substantial contribution to the Broadband Report adopted by D.05-05-013.

⁴ Greenlining's name is listed on two joint filings with LIF on June 10 and 30, 2003, but Greenlining's timesheets indicate only that it briefly reviewed opening and reply comments; the timesheets do not demonstrate an active role in preparing the comments.

Therefore, we conclude that, at most, Greenlining's time associated with preparation for and participation in the en banc resulted in a substantial contribution.

4.2 LIF

LIF filed initial comments and reply comments in the proceeding. It advocated for expanding broadband services to low income communities and provided information about where broadband has not been available in California. Although it did not adopt many of LIF's proposals, the Commission adopted LIF's suggestion to create a broadband task force to address lack of availability of related technologies and contributed to the development of a complete record in this proceeding. We find that LIF made a substantial contribution to this proceeding.

4.3 TURN

TURN filed initial comments and reply comments in the proceeding, urging the Commission to exercise caution in the development of its position on the acceleration of broadband deployment. It argued that the availability of broadband technology alone would not bridge the digital divide because of the lack of computer access and skills, literacy and language barriers. TURN also argued that the broadband market is not competitive. TURN also objected to the draft report's commitment to eliminating certain consumer protections.

TURN acknowledges that the Commission's final report did not adopt its recommendations. However, it believes it made a substantial contribution because the report does address related issues. It also observes that the Commission need not have adopted TURN's suggestions in order for TURN to have made a substantial contribution. (See D.99-10-065, for example.)

We agree that TURN made a substantial contribution in this proceeding. In this proceeding especially, we solicited the input of many parties and members of various user communities, and value TURN's expertise in this area. We wish to continue to encourage thoughtful participation even where specific recommendations were not adopted. Moreover, TURN's recommendations were reflected in the alternate of Commissioner Brown. Finally, this rulemaking exemplifies the kind of proceeding where, because of the novelty, importance, and complexity of the policy issues addressed, an intervenor may substantially contribute by assisting the Commission to develop a comprehensive record, even though the Commission's decision may not have adopted the intervenor's specific recommendations on those issues. We therefore find TURN made a substantial contribution to this proceeding.

5. Reasonableness of Requested Compensation

After we have determined the scope of a customer's substantial contribution, we look at whether the compensation requested is reasonable.

Greenlining requests \$10,620.73 for its participation in this proceeding, as follows:

Advocate	Year	Hours	Rate	Amount
Gnaizda	2003	1.1	\$450.00	\$ 495.00
Gnaizda	2004	0.4	\$490.00	\$ 196.00
Gnaizda	2005	3.1	\$530.00	\$ 1,643.00
Berrío	2003	6.3	\$275.00	\$ 1,732.50
Berrío	2004	1.5	\$300.00	\$ 450.00
Berrío	2005	14.8	\$325.00	\$ 4,810.00
Berrío, comp	2005	6.2	\$162.50	\$ 1,007.50
			Subtotal	\$10,334.00
			Photocopies	\$ 261.20
			Postage	\$ 25.53
			Subtotal	\$ 286.73
			Total	\$10,620.73

LIF requests \$163,926.22 for its participation in this proceeding, as follows:

Advocate	Year	Hours	Rate	Amount
Brown	2003	43.75	\$ 380	\$ 16,625.00
Brown	2004	26	\$ 390	\$ 10,140.00
Brown	2005	35.75	\$ 450	\$ 16,087.50
Montes	2003	16.25	\$ 150	\$ 2,437.50
Montes	2004	18	\$ 150	\$ 2,700.00
Montes	2005	79.5	\$ 150	\$ 11,925.00
Chabrán	2003	17.25	\$ 200	\$ 3,450.00
Chabrán	2004	43	\$ 200	\$ 8,600.00
Chabrán	2005	147	\$ 200	\$ 29,400.00
Fowells	2003	10.5	\$ 200	\$ 2,100.00
Fowells	2004	30.5	\$ 200	\$ 6,100.00
Fowells	2005	14.5	\$ 200	\$ 2,900.00
Lau	2003	95.25	\$ 180	\$ 17,145.00
Lau	2004	58.5	\$ 180	\$ 10,530.00
Lau	2005	105.5	\$ 180	\$ 18,990.00
Gallardo	2005	14.75	\$ 300	\$ 4,425.00
			Subtotal	\$ 163,555.00
			Photocopies	\$ 261.57
			Postage	\$ 55.41
			Supplies	\$ 54.24
			Subtotal	\$ 371.22
			Total	\$ 163,926.22

TURN requests \$62,443.67⁵ for its participation in this proceeding, as follows:

Advocate	Year	Hours	Rate	Amount
Nusbaum	2003	30	\$ 340	\$10,200.00
Nusbaum	2005	100.9	\$ 400	\$40,360.00
Nusbaum, comp	2005	14.9	\$ 200	\$ 2,980.00
Costa	2003	19.25	\$ 215	\$ 4,138.75
Mailloux	2003	1.75	\$ 300	\$ 525.00
Mailloux	2005	3.5	\$ 360	\$ 1,260.00
Finkelstein	2005	3.25	\$ 425	\$ 1,381.25
Florio	2005	1.75	\$ 495	\$ 866.25
Subtotal				\$61,711.25
Photocopies				\$ 647.20
Postage				\$ 53.09
Lexis				\$ 32.03
Phone				\$ 0.10
Subtotal				\$ 732.42
Total				\$62,443.67

In general, the components of this request must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. The issues we consider to determine reasonableness are listed below, followed by a separate discussion on each

1. The hours and costs for which compensation is requested must be related to the customer's work, and necessary for the substantial contribution, as set forth in D.98-04-059.
2. The hourly rates requested must be reasonable under the "market rate" standard set forth in Pub. Util. Code § 1806.
3. The participation must be productive, as set forth in D.98-04-059, in that the amount requested is reasonable in

⁵ TURN's request states that it is for \$62,497.42, however, there was a multiplication error in its table for the amount associated with Costa's work. The corrected request is \$62,443.67.

relation to the benefits accruing to ratepayers by virtue of the substantial contribution.

4. Any other costs or expenses must be reasonable, directly incurred by the customer, and directly related to the substantial contribution. (§ 1802(d).)

5.1 Hours and Costs Related to and Necessary for Substantial Contribution

We first assess whether the hours claimed for the customer's efforts that resulted in substantial contributions to Commission decisions are reasonable by determining to what degree the hours and costs are related to the work performed and necessary for the substantial contribution.

5.1.1 Greenlining

Greenlining documented its claimed hours by presenting a daily breakdown of the hours of its attorneys, accompanied by a brief description of each activity. Since we have found that Greenlining's contributions to D.05-05-013 were limited to its work in preparation for the en banc hearing, we disallow all work claimed after the hearing. Accordingly, we allow 15.4 hours for Berrio and 2.8 hours for Gnaizda. (Greenlining's calculation of Gnaizda's hours in Appendix A of Greenlining's pleading erroneously reports that Gnaizda worked 3.1 hours. The time, however, adds to 4.1 hours, which we apply here). We do not discount Greenlining's time for duplication of effort, low productivity or other reasons.

5.1.2 LIF

LIF documented its claimed hours by presenting a daily breakdown of the hours of its attorneys, accompanied by a brief description of each activity. LIF represents that it coordinated its efforts with other intervenors to minimize duplication of effort.

LIF's requested compensation is substantially higher than any other intervenor. While this alone does not suggest LIF used its time inefficiently, LIF claims excessive hours and time spent on activities we do not compensate, as discussed below.

LIF seeks compensation for time its experts and attorneys spent at conferences and briefing legislators. We do not compensate for time attending conferences that are held by other organizations. We therefore disallow 50 hours claimed for conferences in June 2004 and February 2004 attended by Montes, Chabran, Fowells and Lau and for a hearing at Santa Clara University attended by Chabran. Similarly, we do not compensate briefings for or advocacy before the state legislature. Accordingly, we disallow 24 total hours claimed for legislative briefings in February 2005 by Montes, Fowells, Lau and Chabran.

The hours LIF claims for its work on various activities and work products are excessive. For instance, it claims more than 100 hours to draft opening comments on the assigned Commissioner's draft decision in February 2005. It seeks compensation for more than 50 hours to review opening comments filed in June 2003. To put these amounts in perspective, TURN claims about 25 hours for drafting opening comments on the draft decision and 7 hours to review opening comments filed in June 2003. LIF claims more than 78 hours of work by five individuals to draft comments on Commissioner Brown's alternate. In contrast, TURN claims about 16 hours for this task.

We would compensate these activities if we believed LIF's contributions to the proceeding or the depth of its analyses were commensurate to the time it claims for compensation. However, we have no indication to suggest either of these circumstances. Indeed, LIF's timesheets suggest a duplication of effort within its ranks because in many cases 3 or 4 of its team members worked on the

same products or activities. The claimed hours of Lau are especially excessive. For these reasons, we compensate LIF for 50% of hours that are not disallowed. We believe this is reasonable in light of the time spent by other intervenors in this proceeding and on behalf of ratepayers who pay for the costs of intervenor participation.

5.1.3 TURN

TURN documented its claimed hours by presenting a daily breakdown of the hours of its attorneys, accompanied by a brief description of each activity. TURN represents that it coordinated its efforts with other intervenors to minimize duplication of effort. The hourly breakdown reasonably supports the claim for total hours.

5.2 Market Rate Standard

We next take into consideration whether the claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services.

5.2.1 Greenlining

Greenlining seeks 2003 hourly rates of \$450 and \$275 for Robert Gnaizda and Itzel Berrío respectively. Greenlining seeks 2004 hourly rates of \$490 and \$300 for Gnaizda and Berrío, respectively. The Commission has previously approved these rates for work performed in 2003 and 2004, and we find these rates reasonable.⁶

Greenlining seeks higher hourly rates for 2005 for Gnaizda and Berrio. D.05-11-031, issued in R.04-10-010 after Greenlining filed its request for

⁶ See D.05-06-031 for all rates.

intervenor compensation in this proceeding, determined that rates established for work completed in 2004 will not change in 2005 except in response to specified circumstances. For example, D.05-11-031 states we will consider rate increases where it is required to reflect “additional experience since the last authorized rate...to bring the representative’s hourly rate *within the range of the representative’s peers* at a higher level” or where “a representative’s last authorized rate is *below that of the range of rates...for representative’s with comparable qualifications.*” (Emphasis added.) The range of rates for attorneys with the experience of Berrio and Gnaizda is \$270-\$490. Both are well within this range. Therefore, we use the 2004 rates for work completed in 2005 for Greenlining attorneys in this proceeding.

5.2.2 LIF

LIF seeks 2003 hourly rates of \$380 for Susan Brown. LIF seeks 2004 hourly rates of \$390 for Susan Brown. The Commission has previously approved these rates for work performed in 2003 and 2004, and we therefore find these rates reasonable.⁷

LIF seeks an increase in the hourly rate for 2005 for Susan Brown from \$390 to \$450. It seeks an increase for Gallardo’s rate from \$275, authorized in 2004, to \$300. D.05-11-031, issued in R.04-10-010 after LIF filed its request for intervenor compensation in this proceeding, determined that rates established for work completed in 2004 will not change in 2005 except in response to specified circumstances. For example, D.05-11-031 states we will consider rate increases where it is required to reflect “additional experience since the last

⁷ See D.04-10-032 for all rates.

authorized rate...to bring the representative's hourly rate *within the range of the representative's peers* at a higher level" or where "a representative's last authorized rate is *below that of the range of rates...for representative's with comparable qualifications.*" (Emphasis added.) The range of rates for attorneys with the Brown's experience is \$270-\$490. At \$390, Brown's hourly rate is well within the range for attorneys with comparable qualifications. Gallardo has eight years experience. At \$275 an hour, his rate is within the range of rates for attorneys with 8-12 years of experience. LIF presents no information or argument that would support an increase in his hourly rate and his existing rate for 2004. Accordingly, we use the 2004 rate for work completed in 2005 for Brown and all other LIF attorneys and experts in this proceeding.

The Commission has not previously adopted hourly rates for LIF advocates Ana Montes, Richard Chabrán, Linda Fowells, or James Lau.

LIF states Montes has over 20 years of experience in her field with 15 years of experience on technology issues. It seeks \$150 for her hourly rate, which we find reasonable for 2003-2005.

LIF seeks a rate of \$200 an hour for Chabran, who has over 30 years of relevant experience. Chabran has published articles and led a task force designed to affect public policy on behalf of minority communities. For 2003-2005, we find \$200 for Chabran's hourly rate to be reasonable considering his experience.

LIF seeks \$200 an hour for Fowells. Fowells has more than a dozen years of relevant experience and has published a variety of articles on issues relating to community technology. We reduce the requested amount to \$180 for 2003-2005 because Fowells has substantially less experience than Chabran and less years of experience than Montes.

LIF seeks a rate of \$180 for Lau. LIF does not provide any information about rates set by the Commission for individuals with comparable experience. Since Lau has considerably less experience than Fowells and Montes, we set his initial rate at \$150 for 2003-2005.

LIF appropriately reflected a rate of half the usual amount for Gallardo's work on the compensation request by reducing his hours by half.

5.2.3 TURN

TURN seeks 2003 hourly rates of \$340, \$215, and \$300 for William Nusbaum, Regina Costa, and Christine Mailloux, respectively. It seeks \$325 an hour for work performed in 2004 by Mailloux. The Commission has previously approved these rates for work performed in 2003, and we find these rates reasonable.⁸

TURN seeks higher hourly rates for 2005 at levels it requested in R.04-10-010. D.05-11-031, issued in R.04-10-010 after TURN filed its request for intervenor compensation in this proceeding, determined that rates established for work completed in 2004 will not change in 2005 except where specified exceptional circumstances exist. TURN filed an amendment following issuance of D.05-11-031 seeking an increase of Nusbaum's hourly rate from \$365 to \$400. TURN argues that Nusbaum's existing rate is too low on the basis of his experience. D.05-11-031 states we will consider rate increases where it is required to reflect "additional experience since the last authorized rate...to bring the representative's hourly rate *within the range of the representative's peers* at a higher level" or where "a representative's last authorized rate is *below that of the*

⁸ See D.04-12-054 and D.04-10-033, respectively.

range of rates...for representative's with comparable qualifications." (Emphasis added.) The range of rates for attorneys with Nusbaum's qualifications, as set forth in D.05-11-31, is between \$270-\$490. At \$365, Nusbaum's 2004 rate is well within the range for attorneys with comparable qualifications. Accordingly, we use the 2004 rates for work completed in 2005 for TURN attorneys and experts in this proceeding.

TURN's amendment withdraws TURN's request for rate increase in 2005 for Finkelstein, Mailloux and Florio.

5.3 Productivity

D.98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. The costs of a customer's participation should bear a reasonable relationship to the benefits realized through their participation. This showing assists us in determining the overall reasonableness of the request.

Because this proceeding did not direct utilities to take specific action and did not directly and immediately affect utility rates, it is difficult to determine a dollar value to the work undertaken by intervenors. In this proceeding, it is sufficient to find that intervenors contributed materially to the report we issued by providing a variety of perspectives, analyses and proposals on relevant subjects. Consequently, intervenors significantly advanced our thinking on the important public policy questions we addressed in the report.

5.4 Direct Expenses

The itemized direct expenses submitted by intervenors include costs for travel, photocopying, postage, telephone, Lexis services and messenger services.

5.4.1 Greenlining

Greenlining requests \$286.73 for copying and postage. This is reasonable and we approve it.

5.4.2 LIF

LIF seeks \$371.22 for postage, copying and supplies, which is reasonable.

5.4.3 TURN

TURN seeks \$732.42 for photocopying, postage and Lexis costs, an amount that is reasonable considering the work accomplished in the proceeding.

6. Total Awards

As set forth in the tables below, we award intervenor compensation as follows:

Greenlining

Advocate	Year	Hours	Rate	Amount
Gnaizda	2003	1.1	\$ 450	\$ 495.00
Gnaizda	2004	0.4	\$ 490	\$ 196.00
Gnaizda	2005	1.3	\$ 490	\$ 637.00
Berrío	2003	6.3	\$ 275	\$ 1,732.50
Berrío	2004	1.5	\$ 300	\$ 450.00
Berrío	2005	7.6	\$ 300	\$ 2,280.00
Berrío, comp	2005	6.2	\$ 150	\$ 930.00
Expenses				\$ 286.73
Total				\$ 7,007.23

LIF

Advocate	Year	Hours	Rate	Amount
Brown	2003	21.875	\$ 380	\$ 8,312.50
Brown	2004	13	\$ 390	\$ 5,070.00
Brown	2005	17.875	\$ 390	\$ 6,951.75
Montes	2003	8.125	\$ 150	\$ 1,218.75
Montes	2004	9	\$ 150	\$ 1,350.00
Montes	2005	35.75	\$ 150	\$ 5,362.50
Chabrán	2003	8.625	\$ 200	\$ 1,725.00
Chabrán	2004	13.5	\$ 200	\$ 2,700.00
Chabrán	2005	69.5	\$ 200	\$13,900.00
Fowells	2003	5.25	\$ 180	\$ 945.00

Fowells	2004	10.25	\$ 180	\$ 1,845.00
Fowells	2005	5.25	\$ 180	\$ 945.00
Lau	2003	47.625	\$ 150	\$ 7,143.75
Lau	2004	24.25	\$ 150	\$ 3,637.50
Lau	2005	50.75	\$ 150	\$ 7,612.50
Gallardo	2005	7.375	\$ 275	\$ 2,028.13
Expenses				\$ 371.22
Total				\$71,118.60

TURN

Advocate	Year	Hours	Rate	Amount
Nusbaum	2003	30	\$ 340	\$10,200.00
Nusbaum	2005	100.9	\$ 340	\$34,306.00
Nusbaum, comp	2005	14.9	\$ 170	\$ 2,533.00
Costa	2003	19.25	\$ 215	\$ 4,138.75
Mailloux	2003	1.75	\$ 300	\$ 525.00
Mailloux	2005	3.5	\$325	\$ 1,137.50
Finkelstein	2005	3.25	\$ 395	\$ 1,692.50
Florio	2005	1.75	\$ 470	\$ 822.50
Expenses				\$ 732.42
Total				\$56,087.67

Consistent with previous Commission decisions, we order that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15) commencing the 75th day after each filed its compensation request and continuing until full payment of the award is made.

This rulemaking proceeding affected a broad array of utilities and others in the telecommunications field. As such, we find it appropriate to authorize payment of the compensation award from the intervenor compensation program fund, as described in D.00-01-020.

We remind all intervenors that Commission staff may audit records relevant to this award, and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Greenlining, LIF, and TURN's records should identify specific

issues for which each requested compensation, the actual time spent by each employee or consultant, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation was claimed.

7. Waiver of Comment Period

This is an intervenor compensation matter. Accordingly, as provided by Rule 77.7(f)(6) of our Rules of Practice and Procedure, we waive the otherwise applicable 30-day comment period for this decision.

8. Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner and Kim Malcolm is the assigned ALJ in this proceeding.

Findings of Fact

1. Greenlining made a substantial contribution to D.05-05-013 as described herein.
2. LIF made a substantial contribution to D.05-05-013 as described herein.
3. TURN made a substantial contribution to D.05-05-013 as described herein.
4. The total reasonable compensation for Greenlining is \$7,007.23.
5. The total reasonable compensation for LIF is \$71,118.60.
6. The total reasonable compensation for TURN is \$56,087.67.

Conclusions of Law

1. Greenlining has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its claimed compensation, as set forth herein, incurred in making substantial contributions to D.05-05-013.

2. LIF has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor

compensation for its claimed compensation, as set forth herein, incurred in making substantial contributions to D.05-05-013.

3. TURN has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its claimed compensation, as set forth herein, incurred in making substantial contributions to D.05-05-013.

4. Per Rule 77.7(f)(6), the comment period for this compensation decision may be waived.

5. This order should be effective today so that Greenlining, LIF, and TURN may be compensated without further delay.

6. This rulemaking should be closed.

O R D E R

IT IS ORDERED that:

1. Greenlining Institute (Greenlining) is awarded \$7,007.23 in compensation for its contribution to Decision (D.) 05-05-013.

2. Latino Issues Forum (LIF) is awarded \$71,118.60 in compensation for its contribution to D.05-05-013.

3. The Utility Reform Network (TURN) is awarded \$56,087.67 in compensation for its contribution to D.05-05-013.

4. Within 30 days of the effective date of this decision, the three awards described herein shall be paid from the intervenor compensation program fund, as described in D.00-01-020. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning the 75th day after the respective filing

dates of Greenlining, LIF, and TURN's requests for compensation, and continuing until full payment is made.

5. Rulemaking 03-04-003 is closed.

This order is effective today.

Dated April 13, 2006, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
JOHN A. BOHN
Commissioners

APPENDIX

Compensation Decision Summary Information

Compensation Decision:	D0604036	Modifies Decision?
Contribution Decision(s):	D0505013	
Proceeding(s):	R0304003	
Author:	ALJ Malcolm	
Payer(s):	Fund	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	July 6, 2005	\$62,443.67	\$56,087.67	No	Attorney Fees
Latino Issues Forum	July 18, 2005	\$163,926.22	\$71,118.60	No	Attorney Fees, activities
Greenlining Institute	July 1, 2005	\$10,620.73	\$7,007.23	No	Attorney Fees, activities

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Susan	Brown	Attorney	Latino Issues Forum	\$390	2004	\$390
Susan	Brown	Attorney	Latino Issues Forum	\$380	2003	\$380
	Gallardo	Attorney	Latino Issues Forum	\$300	2005	\$275
Susan	Brown	Attorney	Latino Issues Forum	\$450	2005	\$390
Richard	Chabran	Expert	Latino Issues Forum	\$200	2003-05	\$200
Ana	Montes	Expert	Latino Issues Forum	\$150	2003-05	\$150
Linda	Fowells	Expert	Latino Issues Forum	\$200	2003-05	\$180
James	Lau	Expert	Latino Issues Forum	\$180	2003-05	\$150
Robert	Gnaizda	Attorney	Greenlining Institute	\$450	2003	\$450
Itzel	Berrio	Attorney	Greenlining Institute	\$275	2003	\$300
Robert	Gnaizda	Attorney	Greenlining Institute	\$490	2004	\$490
Itzel	Berrio	Attorney	Greenlining Institute	\$300	2004	\$300
Robert	Gnaizda	Attorney	Greenlining Institute	\$530	2005	\$490
Itzel	Berrio	Attorney	Greenlining Institute	\$325	2005	\$300
William	Nusbaum	Attorney	The Utility Reform Network	\$340	2003	\$340
William	Nusbaum	Attorney	The Utility Reform Network	\$400	2005	\$340
Regina	Costa	Expert	The Utility Reform Network	\$215	2003	\$215
Christine	Mailloux	Attorney	The Utility Reform Network	\$300	2003	\$300
Christine	Mailloux	Attorney	The Utility Reform Network	\$360	2005	\$325
Robert	Finkelstein	Attorney	The Utility Reform Network	\$425	2005	\$395
Michael	Florio	Attorney	The Utility Reform Network	\$495	2005	\$470

(END OF APPENDIX)